

By: Mowen

S.J.R. No. 4

SENATE  
A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing jury instructions  
2 on good time and eligibility for parole and mandatory supervision.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Article IV, Section 11, of the Texas Constitution  
5 is amended to read as follows:

6 Sec. 11. (a) The Legislature shall by law establish a Board  
7 of Pardons and Paroles and shall require it to keep record of its  
8 actions and the reasons for its actions. The Legislature shall  
9 have authority to enact parole laws and laws that require or permit  
10 courts to inform juries about the effect of good conduct time and  
11 eligibility for parole or mandatory supervision on the <sup>period of incarceration</sup> length of a  
12 sentence served by a defendant convicted of a criminal offense.

13 (b) In all criminal cases, except treason and impeachment,  
14 the Governor shall have power, after conviction, on the written  
15 signed recommendation and advice of the Board of Pardons and  
16 Paroles, or a majority thereof, to grant reprieves and commutations  
17 of punishment and pardons; and under such rules as the Legislature  
18 may prescribe, and upon the written recommendation and advice of a  
19 majority of the Board of Pardons and Paroles, he shall have the  
20 power to remit fines and forfeitures. The Governor shall have the  
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22 exceed thirty (30) days; and he shall have power to revoke  
23 conditional pardons. With the advice and consent of the  
24 Legislature, he may grant reprieves, commutations of punishment and  $\frac{1}{2}$

3-22-89  
4-3-89  
5-2-89

S. J. R. No. 4

1 pardons in cases of treason.

2 SECTION 2. This proposed constitutional amendment shall be  
3 submitted to the voters at an election to be held November 7, 1989.  
4 The ballot shall be printed to provide for voting for or against  
5 the proposition: "The constitutional amendment authorizing the  
6 legislature to require or permit courts to inform juries about the  
effect of good conduct time and eligibility for parole or mandatory  
supervision on the ~~length of a sentence~~ <sup>Period of incarceration</sup> served by a defendant  
8 convicted of a criminal offense."  
9

1 By: Brown S.J.R. No. 4  
2 (In the Senate - Filed December 8, 1988; January 11, 1989,  
3 read first time and referred to Committee on Criminal Justice;  
4 March 22, 1989, reported favorably by the following vote: Yeas 5,  
5 Nays 1; March 22, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 McFarland	x			
8 Brown	x			
9 Dickson	x			
10 Lyon	x			
11 Santiesteban				x
12 Tejada	x			
13 Washington		x		

15 SENATE JOINT RESOLUTION

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47 supervision on the length of a sentence served by a defendant  
48 convicted of a criminal offense."

49 \* \* \* \* \*

50 Austin, Texas  
51 March 22, 1989

52 Hon. William P. Hobby  
53 President of the Senate

54 Sir:

55 We, your Committee on Criminal Justice to which was referred S.J.R.  
56 No. 4, have had the same under consideration, and I am instructed  
57 to report it back to the Senate with the recommendation that it do  
58 pass and be printed.

59 McFarland, Chairman

# LEGISLATIVE BUDGET BOARD

Austin, Texas

JAN 27 1989

## FISCAL NOTE

January 27, 1989

TO: Honorable Bob McFarland, Chairman    In Re: Senate Joint Resolution No. 4  
Committee on Criminal Justice            By: Brown  
Senate Chamber  
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 4 (proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would allow jury instructions about the effect of good time and eligibility for parole and mandatory supervision on the length of a sentence. The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

No fiscal implication to units of local government is anticipated.

Source: Secretary of State;  
LBB Staff: JO, JWH, AL, GMH, LV

# SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

March 27 1989

(date)/(time)

Sir:

We, your Committee on CRIMINAL JUSTICE to which was referred  
SNR 4 by Brown have on 3/21, 19 89, had the same  
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
McFarland, Chairman	<input checked="" type="checkbox"/>			
Brown, Vice Chairman	<input checked="" type="checkbox"/>			
Dickson	<input checked="" type="checkbox"/>			
Lyon	<input checked="" type="checkbox"/>			
Santiesteban				<input checked="" type="checkbox"/>
Tejeda	<input checked="" type="checkbox"/>			
Washington		<input checked="" type="checkbox"/>		
TOTAL VOTES	5	1		1

[Signature]  
COMMITTEE CLERK

[Signature]  
CHAIRMAN

AMEND THE CAPTION TO CONFORM  
TO THE BODY OF THE BILL

**ADOPTED**

APR 3 1989

*Betty King*  
Secretary of the Senate

APR 3 1989

FLOOR AMENDMENT NO. 1

BY

*Phonix*

Amend S.J.R. No. 4, SECTION 1. Sec. 11(a) and SECTION 2 by  
striking the words "length of a sentence" and inserting "period  
of incarceration" on line 26, 27, and 47.

ADOPTED

APR 3 1989

*[Signature]*

*Rattall 5/2/89*

*Hon Am. #1*

*4-3-89*

*# 5-2-89*

April 3 1989 Engrossed

*Lacey Law*

Engrossing Clerk

I certify that the attached is a true and correct  
copy of SR 4 which was  
received from the Senate on 4-4-89 and  
referred to the Committee on Criminal Jurisprudence

*Barbara M. ...*  
Chief Clerk of the House

By: Brown  
(Morales)

S.J.R. No. 4

SENATE JOINT RESOLUTION

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S.J.R. No. 4

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7 effect of good conduct time and eligibility for parole or mandatory  
8 supervision on the period of incarceration served by a defendant  
9 convicted of a criminal offense."

# LEGISLATIVE BUDGET BOARD

Austin, Texas

JAN 27 1989

## FISCAL NOTE

January 27, 1989

TO: Honorable Bob McFarland, Chairman    In Re: Senate Joint Resolution No. 4  
Committee on Criminal Justice            By: Brown  
Senate Chamber  
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 4 (proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would allow jury instructions about the effect of good time and eligibility for parole and mandatory supervision on the length of a sentence. The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

No fiscal implication to units of local government is anticipated.

Source: Secretary of State;  
LBB Staff: JO, JWH, AL, GMH, LV

# HOUSE COMMITTEE REPORT

89 APR 20 PM 13:14  
HOUSE OF REPRESENTATIVES

## 1st Printing

By: Brown  
(Morales)

S.J.R. No. 4

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8 supervision on the period of incarceration served by a defendant  
9 convicted of a criminal offense."

# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

4/17/89  
(date)

Sir:

We, your COMMITTEE ON CRIMINAL JURISPRUDENCE,

to whom was referred SJR 4 have had the same under consideration and beg to report  
(measure)

back with the recommendation that it

☒ do pass, without amendment.

☐ do pass, with amendment(s).

☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

An author's fiscal statement was requested. ☐ yes ☒ no

A criminal justice policy impact statement was prepared. ☐ yes ☒ no

A water development policy impact statement was requested. ☐ yes ☒ no

☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ☐ Local, ☐ Consent, or ☐ Resolutions Calendar.

This measure ☐ proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure Dan Morales

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Morales, Ch.	X			
Polumbo, V.C.	X			
Alexander	X			
Hinojosa		X		
McCollough			X	
Ovard	X			
Parker		X		
Richardson	X			
Warner		X		

Total

5 aye

3 nay

1 present, not voting

0 absent

Dan Morales  
CHAIRMAN

Deborah K. Wall  
COMMITTEE COORDINATOR

## BILL ANALYSIS

By: Brown

SJR 4

House Sponsor: Morales

### BACKGROUND

Currently, Texas courts consider a jury's discussion of parole while assessing a defendant's punishment to be grounds for new trial. SB 37 of the 69th Legislature amended the Code of Criminal Procedure to allow judges to charge juries as to the substance of parole law and manner in which juries could consider it in determining sentences.

This provision was found unconstitutional by the Court of Criminal Appeals in Rose v. Texas, 752 S.W. 2d. 529 (1987). The court held the jury charge was a violation of separation of powers (Art. 11, Sec. 1) and due course of law (Art. 1, Sec. 19) as provided for in the Texas Constitution.

### PURPOSE

SJR 4 establishes a constitutional basis for any legislative efforts to provide courts with a jury charge regarding good conduct time and parole.

### RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not delegate any rulemaking authority to a state agency, officer, department or institution.

### SECTION-BY-SECTION ANALYSIS

#### SECTION 1.

Amends Article IV, Section 11, Texas Constitution, giving the legislature the authority to pass laws which allow for jury instructions to be given regarding the effect of good conduct time and parole or mandatory supervision on the length of a defendant's sentence.

#### SECTION 2.

Amendment to be voted upon November 7, 1989. Provides ballot wording.

### SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance to the rules of the House and a public hearing was held on April 17, 1989. Chairman Morales explained the joint resolution. Recognized in favor of the joint resolution but not testifying were the following: James McCarley, representing Tx. Law Enforcement Legislative Council; Jose Chavez, Arlington Police Association; Scott Cary, Austin Police Association/CLEAT; Robin Hawkins, SAPOA; Matt Herden, SAPOA; David Howard, SAPOA; Jose Gonzales, Arlington Police Association. Recognized to speak on the bill was Rusty Hardin, TDCAA. The following were recognized to speak in opposition to the constitutional amendment: Ed Mallett, TCDLA; Richard Anderson, TCDLA; Steve Martin, representing himself; John Boston, TCDLA.

Recognized in opposition to the joint resolution but not testifying was Gerry Morris, TCDLA. The full committee voted to report SJR 4 to the House without amendment with the recommendation that it do pass by a record vote of 5 ayes, 3 nays, 1 PNV, and 0 absent and be placed on the general calendar.

House Committee on Criminal Jurisprudence  
jjb

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 13, 1989

TO: Honorable Dan Morales, Chair      In Re: Senate Joint Resolution No. 4,  
Committee on Criminal Jurisprudence      as engrossed  
House of Representatives      By: Brown  
Austin, Texas

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 4, as engrossed (proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would allow jury instructions about the effect of good time and eligibility for parole and mandatory supervision on the length of a sentence. The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Secretary of State;  
LBB Staff: JO, JWH, AL, GMH, NH



# LEGISLATIVE BUDGET BOARD

Austin, Texas

JAN 27 1989

## FISCAL NOTE

January 27, 1989

TO: Honorable Bob McFarland, Chairman    In Re: Senate Joint Resolution No. 4  
Committee on Criminal Justice            By: Brown  
Senate Chamber  
Austin, Texas

FROM: Jim Oliver, Director

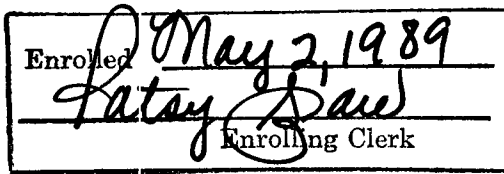
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S.J.R. No. 4

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---

President of the Senate

---

Speaker of the House

I hereby certify that S.J.R. No. 4 was adopted by the Senate  
on April 3, 1989, by the following vote: Yeas 26, Nays 5.

---

Secretary of the Senate

I hereby certify that S.J.R. No. 4 was adopted by the House  
on May 2, 1989, by the following vote: Yeas 133, Nays 10.

---

Chief Clerk of the House

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 13, 1989

TO: Honorable Dan Morales, Chair      In Re: Senate Joint Resolution No. 4,  
Committee on Criminal Jurisprudence      as engrossed  
House of Representatives      By: Brown  
Austin, Texas

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JAN 27 1989

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Source: Secretary of State;  
LBB Staff: JO, JWH, AL, GMH, LV

2446  
KPEE

S.J.R. No. 4

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.J.R. No. 4 (1) was adopted by the  
Senate on April 3 (2), 1987, by the following vote:  
Yeas 26 (3), Nays 5 (4).

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.J.R. No. 4 (1) was adopted by the  
House on May 2 (5), 1987, by the following vote:  
Yeas 133 (6), Nays 10 (7).

\_\_\_\_\_  
Chief Clerk of the House

S. J. R. No. 4

By Brown

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision.

12-8-88

Filed with the Secretary of the Senate

JAN 11 1989

Read and referred to Committee on CRIMINAL JUSTICE

MAR 22 1989

Reported favorably \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

APR 3 1989

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent  
27 yeas, 4 nays

APR 3 1989

Read second time amended, and ordered engrossed by:

{ unanimous consent  
a viva voce vote  
26 yeas, 5 nays

APR. 3 1989

Caption ordered amended to conform to the body of the bill.

APR 3 1989

Senate and Constitutional 3 Day Rule suspended by a vote of 26 yeas, 5 nays.

APR 3 1989

Read third time, \_\_\_\_\_, and passed by 26 yeas, 5 nays.

Betty King

SECRETARY OF THE SENATE

OTHER ACTION:

April 3, 1989

Engrossed

4-4-89

Sent to House

Fathey Law

Engrossing Clerk

APR 4 1989

Received from the Senate

APR 6 1989

Read first time and referred to Committee on

Criminal Jurisprudence

APR 17 1989

Reported favorably amended, sent to Printer

8:30 pm

APR 20 1989

Printed and Distributed

10:14 pm

APR 20 1989

APR 21 1989

Sent to Committee on Calendars

10:41 am

MAY 2 1989

Read second time (amended) and finally adopted

~~failed adoption~~ by Record Vote of 133 yeas, 10 nays, 0 present not voting.

Read third time (amended) and finally adopted

~~failed adoption~~ by a Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present not voting.

Caption ordered amended to conform to body of resolution

MAY 2 1989

Returned to Senate.

Betty Murray

CHIEF CLERK OF THE HOUSE

MAY 2 1989

Returned from House without amendment.

Returned from House with \_\_\_\_\_ amendments.

Concurred in House amendments by a viva voce vote \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the difference.

\_\_\_\_\_ Senate conferees instructed.

\_\_\_\_\_ Senate conferees appointed: \_\_\_\_\_, Chairman; \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

\_\_\_\_\_ House granted Senate request. House conferees appointed: \_\_\_\_\_, Chairman; \_\_\_\_\_.

\_\_\_\_\_ Conference Committee Report read and filed with the Secretary of the Senate.

\_\_\_\_\_ Conference Committee Report adopted on the part of the House by: \_\_\_\_\_

{ a viva voce vote  
{ \_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Conference Committee Report adopted on the part of the Senate by: \_\_\_\_\_

{ a viva voce vote  
{ \_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
{ \_\_\_\_\_ yeas, \_\_\_\_\_ nays

62-5720-1113-14